IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.147 OF 2006
IN
APPEAL FROM ORDER ST.NO.12761 OF 2005

Shri Mohamed Ali Jamadar Choudhari. ..Applicant.

V/s.

Smt.Laxmi Indra Vanshi Mishra & Ors. ..Respondents.

Ms.Prachi Tutake for Smt. P.P.Kakade for applicant.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 14, 2006.

P.C. :

1. Heard counsel for the applicant.

2. The explanation offered in this application is unacceptable. The justification given for absence at the first call can well be considered. But there is no justification for the absence even at the second call. The advocate on record is expected to make necessary arrangement to atleast inform the court about difficulty and seek indulgence of the court as may be advised. The advocate on record cannot take the court for granted that the matter will be kept back once again even at the second call without making formal request to the court in that behalf. As the litigant should not suffer for the

mistake of advocate on record, this application is allowed in terms of prayer clause (a) and (b) on condition that the advocate on record shall personally pay costs quantified at Rs.750/- to the High Court Legal Services Committee within one week from today, failing which office to proceed on the assumption that this application is dismissed for non-prosecution without further reference to the court.

3. If cost is paid in time, the main matter be processed further and be listed under appropriate caption as per its turn.